

65 - INDEPENDENT AGENCIES - REGULATORY

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 910 - SAFETY OF OVERHEAD UTILITY LINES CROSSING WATER AND ADJACENT AREAS SUITABLE FOR RIGGING, LAUNCHING, AND OPERATING BOATS:

SUMMARY: This Rule establishes safety requirements for overhead utility lines crossing areas of water and adjacent rigging and launching areas where boats may come into contact with overhead lines.

§ 1 DEFINITIONS

A. Areas Posted for Rigging or Launching Sailboats. "Areas posted for rigging or launching sailboats" means any area that by signs, launching ramps, or other special facilities, land improvements or use indicates that the area is intended to be used by the public for rigging or launching sailboats.

B. Aerial Utility. "Aerial Utility" means any transmission and distribution utility, telephone utility or cable television company that owns overhead lines. This definition of aerial utility shall apply for the purposes of this Rule only.

C. Transmission and Distribution Utility. "Transmission and distribution utility means any person, firm or corporation as defined in 35-A M.R.S.A. § 102(20-B).

D. Telephone Utility. "Telephone utility" means any person, firm or corporation as defined in 35-A M.R.S.A. §102(19), except for radio common carriers as defined in 35-A M.R.S.A. §102(14) ; mobile telecommunications services as defined in 35-A M.R.S.A. § 102(9-A); and owners of customer-owned coin-operated telephones (COCOTs) subject to Chapter 25 of the Commission's Rules.

E. Cable Television Company. "Cable television company" means any person, firm or corporation as defined by 30-A M.R.S.A. § 2001.

F. National Electrical Safety Code. "National Electrical Safety Code" means the American National Standard approved by the American National Standards Institute (ANSI C2-1997) on June 6, 1996, the 1997 Edition, or the most recent edition of the National Electrical Safety Code, including the substantive provisions of any applicable footnotes whether or not renumbered, or any successor publication in effect pursuant to 35-A M.R.S.A. § 2305-A. Copies of the applicable provisions of the National Electrical Safety Code may be viewed at the Public Utilities Commission, 242 State Street, State House Station #18, Augusta, Maine 04333-0018, telephone: (207) 287-3831 or obtained from the

Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York, 10017-2394, www.ieee.org.

§ 2 PURPOSE

This Rule establishes minimum safety requirements for overhead utility lines crossing areas of water and adjacent rigging and launching areas where boats may come into contact with overhead lines. Nothing in this Rule shall be interpreted to prohibit or discourage aerial utilities from taking other action to warn the boating public of the presence of their lines, including without limitation, marking lines with warning devices, such as orange spheres, furnishing appropriate warning signs to the owners of rigging or launching areas and educating the public as to the significance of warning devices and the dangers of utility lines.

§ 3 VERTICAL CLEARANCE REQUIREMENTS

All overhead lines of an aerial utility crossing water areas suitable for sailing, or public or private land and water areas posted for rigging or launching sailboats, shall comply with the vertical clearance requirements of Section 232 of the National Electrical Safety Code, Table 232-1, sections 7 and 8 thereof, together with all applicable footnotes, with the following modifications:

A. Water Areas of 20 to 2,000 Acres

The same vertical clearance requirements shall apply to all water areas with unobstructed areas of 20 to 2,000 acres. These requirements shall be the higher clearance requirements set forth by the National Electrical Safety Code for water areas of 200 to 2,000 acres. To accomplish this, the following modifications are made:

- 1) Section 7(b) of Table 232-1 is eliminated, and the vertical clearance requirements of Section 7(c) (minimum clearances of 31.5 feet to 34.5 feet) shall apply to all water areas suitable for sailing with an unobstructed surface area of 20 acres to 2,000 acres.
- 2) Section 7(b) is eliminated for the purposes of Section 8 and the vertical clearance requirements of five (5) feet greater than the Section 7(c) requirements (36.5 feet to 39.5 feet) shall apply to all public or private land and all water areas posted for rigging or launching sailboats on water areas of 20 to 2,000 acres.

- 3) In footnote 18 of Table 232-1, referring to Table 232-3, the 20 to 200 acre surface area category (f(2)) is eliminated and the reference vessel height of 30 feet shall apply to surface areas of 20 acres to 2,000 acres.

B. Existing Communications and Neutral Conductors

Telephone utilities may maintain communications conductors and cables on poles, and electric utilities may maintain existing neutral conductors that meet the requirements of Rule 230 E(l) of the Code on poles and conductors existing as of August 9, 1988, until such time as the pole is replaced, removed, or reconstructed, at which time any remaining conductors and cables shall meet the requirements of this Rule. Cable television companies may maintain communications conductors and cables on poles existing as of the effective date of September 1, 2001, until such time as the pole is replaced, removed, or reconstructed, at which time any remaining conductors and cables shall meet the requirements of this Rule.

C. Lesser Requirements Superseded

With respect to footnote 19 to Table 232-1, the vertical clearance requirements of this Rule shall supersede any requirements for less vertical clearance allowed by the State of Maine, or a surrogate thereof, or the U.S. Army Corps of Engineers, to the extent allowed by law.

§ 4 DELEGATION OF AUTHORITY

The Commission delegates to the Director of the Technical Analysis Division of the Commission (or other staff member as delegated by the Commission) the authority to determine whether a line at a particular location is governed by this Rule or complies with this Rule.

§ 5 CIVIL VIOLATION FOR FAILURE TO COMPLY

An aerial utility that fails or refuses to comply with any provision of the Rule commits a civil violation pursuant to 35-A M.R.S.A. §1508 for which a forfeiture not to exceed \$1,000 may be adjudged for each offense. Each day that the utility willfully fails to comply with the requirements of this Rule constitutes a separate offense.

§ 6 WAIVER OR EXEMPTION

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may waive any of the requirements of this Chapter that are not required by statute. Where good cause exists, the Commission, the Director of the Technical Analysis, or Presiding Officer in a

proceeding related to this Rule may grant the requested waiver, provided that the granting of the waiver would not be inconsistent with the purposes of this Chapter or Title 35-A.

BASIS STATEMENT: The factual and policy basis for the original rule is set forth in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Commission Docket No. 88-97, issued on July 19, 1988. The factual and policy basis for the amended rule is set forth in the Commission's Order Adopting Amended Rule, Docket No. 2001-374 issued on September 10, 2001. Copies of the Order have been filed with this Rule at the office of Secretary of State. Copies may also be obtained from the Administrative Director of the Public Utilities Commission, 242 State Street, Augusta, Maine 04333-0018.

AUTHORITY: 35-A M.R.S.A. §§ 104, 111, 301(1), and 2305-A

EFFECTIVE DATE: This Rule was approved as to form and legality by the Attorney General on 9/13/01. It was filed with the Secretary of State on 9/14/01 and will be effective on 9/19/01.